

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 367

S. P. 175

In Senate, February 7, 1979

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

Presented by Senator Pierce of Kennebec.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Concerning the Accountancy Statutes.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 32 MRSA § 3972, first ¶, 3rd sentence from the end, as enacted by PL 1967, c. 344, § 1, is amended to read:

Each member of the board shall receive ~~§5~~ **\$10** per hour and his necessary expenses, while engaged in the discharge of his official duties.

Sec. 2. 32 MRSA § 3972, last ¶, first sentence, as enacted by PL 1967, c. 344, § 1, is amended to read:

The board may promulgate and amend rules of professional conduct appropriate to establish and to maintain a high standard of integrity and of dignity in the profession of public accountancy **and regulations prescribing requirements of continuing education shall be met as a condition to renewal of permits to practice under section 3990 by the holders of those permits in order to maintain their professional knowledge and competency.**

Sec. 3. 32 MRSA §§ 3982 and 3983, as enacted by PL 1967, c. 344, § 1, are amended to read:

§ 3982. Reciprocity

The certified members of the board may, in their discretion, waive the examination and upon the payment of a fee not to exceed ~~\$50 specified in section 3983~~ **\$100**, issue a certificate of certified public accountant under section 3981, to any person who is a resident of this State and who is the holder of a certificate as certified public accountant issued under the laws of another state or foreign government which is then in full force and effect, provided the requirements in the state or foreign government which has granted the certificate to the applicant are, in the opinion of the certified members of the board, equivalent to those of this State.

§ 3983. Fees; 2nd examination

Each applicant for examination shall pay the secretary of the board a fee not to exceed ~~\$50~~ **\$100** at the time of filing his application. If the applicant fails to pass the examination, the fee shall not be returned to him, but he shall be entitled to be reexamined at any advertised meeting at which there are to be other applicants for examination, on payment of an additional fee of ~~\$7~~ **not to exceed \$40** for each section of the examination ~~in which he is reexamined~~ **which he has not previously passed**.

Sec. 4. 32 MRSA § 3989, as enacted by PL 1967, c. 344, § 1, is amended to read:

§ 3989. Partnerships, corporations and offices

Each **corporation, formed pursuant to Title 13, chapter 22**, partnership or office engaged in or established for the practice of public accounting in the State of Maine shall register with the Maine Board of Accountancy on or before July 1st annually, but no fee shall be charged for such registration. Application for registration shall be in the form prescribed by the board and the requirements for registration shall be as follows.

1. Partnership or corporation of certified public accountants. Registration of a partnership **or corporation** of certified public accountants must meet all of the following requirements.

A. Each partner ~~thereof~~ **or shareholder** must be a certified public accountant of some state in good standing.

B. Each partner **or shareholder** engaged in public accounting in this State and each resident manager in charge of an office of the firm in this State must be a certified public accountant of some state in good standing.

A partnership **or corporation** so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership **or corporation** name. Notification shall be given to the board within one month after the admission of, or withdrawal of, a partner **or shareholder** from any partnership **or corporation** so registered.

2. Partnership or corporation of public accountants. Registration of a partnership or corporation of public accountants must meet all of the following requirements.

A. Each partner or shareholder thereof, personally engaged within this State in the practice of public accounting, must be a certified public accountant or a public accountant of some state in good standing.

B. Each resident manager in charge of an office of a firm in this State must be a certified public accountant or a public accountant of some state in good standing.

A partnership or corporation which is so registered may use the words "public accountants" in connection with its partnership or corporation name.

Notification shall be given the board, within one month, after the admission of, or withdrawal of, a partner or shareholder from any partnership or corporation so registered.

3. Office. Each office established or maintained in this State for the practice of public accounting by any person or persons subject to this chapter must be registered and must be under the direct supervision of a resident manager, who may be either a principal or staff employee holding a permit under section 3990 which is in full force and effect, provided that the title "certified public accountant" or abbreviation "C.P.A." shall not be used in connection with such office unless such resident manager is a holder of a certificate under section 3981 and a valid permit issued under section 3990.

Sec. 5. 32 MRSA § 3990, as last amended by PL 1975, c. 696, § 3, is repealed and the following enacted in its place:

§ 3990. Permits to practice

1. Issuance, renewal. Permits to engage in the practice of public accounting in this State shall be issued by the board to holders of the certificate of certified public accountant and to holders of the certificate of public accountant, provided all offices of the certificate holder are maintained and registered as required under section 3989. There shall be an initial permit fee in an amount to be determined by the board not to exceed \$100. All permits shall expire on the last day of June of each year and may be renewed annually for a period of one year by certificate holders in good standing upon payment of an annual renewal fee of not to exceed \$100. Reregistration forms must be mailed by the board to all permit holders by May 31st annually. Any certificate holder who continues to practice public accounting and who fails to apply for that annual permit, on or before the last day of June in each year shall be liable, in addition to the regular permit fee, for a penalty of \$5 or 5% of the annual fee whichever is greater, for each month or fraction thereof during which his failure continues. If the failure continues for more than one year, the certificate holder shall pay, in addition to the penalty, the annual fee or fees for the year or years during which the failure continues. Any

certificate holder whose employment by any government agency prohibits or precludes his practice of public accounting in the State of Maine, by application to the board, shall be excused from paying the annual permit fee during the period of employment.

2. **Continuing education a requirement for permit.** After the expiration of the one-year period immediately following the effective date of board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a certified public accountant or the certificate of public accountant for one year or more shall be accompanied or supported by such evidence as the board shall prescribe of satisfaction of those requirements during the year preceding the application. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education only upon condition that the applicant follow a particular program or schedule of continuing education. In issuing rules, regulations and individual orders in respect of requirements of continuing education, the board in its discretion may, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations; may prescribe for content, duration and organization of courses; shall take into account any impediments to interstate practice of public accountancy which may result from differences in those requirements in other states; and may provide for relaxation or suspension of those requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy. The number of hours of continuing education shall be determined by the board, but in no event shall it exceed 40 hours in any calendar year.

Sec. 6. 32 MRSA § 3994, sub-§ 5, first sentence, as enacted by PL 1967, c. 344, § 1, is amended to read:

No person or partnership or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "CA," ~~"PA,"~~ "RA," "EA," or "LA," or similar abbreviations likely to be confused with "CPA" or "PA."

Sec. 7. 32 MRSA § 3994, sub-§ 6, as enacted by PL 1967, c. 344, § 1, is repealed.

Sec. 8. 32 MRSA § 3994, sub-§ 8, as enacted by PL 1967, c. 344, § 1, is amended to read:

8. **Words indicating public accountant, partnership, corporation.** No person shall sign or affix a partnership or corporation name, with any wording indicating that it is a partnership or corporation composed of public accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership or corporation is registered under section 3989 and all of its offices in this State for the practice of public accounting are maintained and registered under section 3989.

Sec. 9. 32 MRSA § 3994, sub-§ 9, as enacted by PL 1967, c. 344, § 1, is repealed.

Sec. 10. 32 MRSA § 3994, sub-§ 10, first sentence, as enacted by PL 1967, c. 344, § 1, is repealed and the following enacted in its place:

No person not holding a live permit issued under section 3990, and no partnership or corporation not registered under section 3989 shall hold himself or itself out to the public as an “accountant” or “auditor,” or shall hold himself or itself out as offering to perform “accounting services” or “auditing services” by use of any of these words or phrases on any sign, card, letterhead or in any advertisement or directory.

Sec. 11. 32 MRSA § 3995, last sentence, as enacted by PL 1967, c. 344, § 1, is amended to read:

Persons and corporations performing these services may be styled and known as ~~“accountants,” or any other~~ **under any style or designation not prohibited by section 3994.**

Sec. 12. 32 MRSA § 3997, first sentence, as enacted by PL 1967, c. 344, § 1, is amended to read:

Any person who willfully violates any provision of section 3994 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ~~\$500~~ **\$2,000**, or by imprisonment for not more than one year, or by both.

Sec. 13. 32 MRSA § 3999, as enacted by PL 1967, c. 344, § 1, is amended by adding at the end the following new sentence:

Nothing in this section shall prohibit the disclosure of any data to other certified public accountants, public accountants or anyone in their employ in connection with peer reviews of that accountant’s accounting and auditing practice.

STATEMENT OF FACT

This bill makes several amendments to the accountancy statutes.

The major thrust of the bill is to authorize the board to require continuing professional education as a condition to practicing public accounting.

The bill will also:

Increase compensation to members of the board (T. 32, § 3972);

Increase limit for fees to be charged for reciprocal certificates (T. 32, § 3982) and for the examination (T. 32, § 3983);

Conform the accountancy statute to the Professional Service Corporation Act (T. 13, c. 22) (T. 32, §§ 3989, 3994, subsections 5, 6, 8, 9 and 10);

Includes penalty for failure to apply for annual permit on time (T. 32, § 3990);

Conform the statute to recent judicial decisions concerning the use of the term "accountant" (T. 32, § 3990 and § 3995);

Increase the possible fine for violation of T. 32, section 3994 (T. 32, § 3997); and

Permit peer reviews of an accountant's practice.